



Operations, Management and Maintenance

Operating, maintaining and managing a system of greenways in Asheville will require a coordinated effort among the City of Asheville and private sector organizations and individuals. The following text defines the key aspects of greenway system management, beginning with operational policies, followed by facility management, land management, safety and security, trail user rules and regulations, an emergency response plan, and a risk management plan.

Operations Policies

Over the course of time, the City of Asheville will encounter a variety of issues that are important to the successful management and operation of the greenway system. The following operational policies are defined to assist the City in responding to typical greenway implementation issues. More specific problems and issues may arise during the long-term development of the system that result in additional policies being considered and adopted.

Right of Public Access and Use of Trail Lands Policy

The general public should have free access to and use of all greenway lands that are owned by the City of Asheville, or on land that the City has secured the right of public access and use. All access and use is governed by existing City policies and should also



be governed by a new City Trail Ordinance (found in this chapter). The use of all trails is limited to non-motorized uses, including hiking, bicycling, running, jogging, wheelchair use, skateboarding, rollerblading, equestrian use, mountain biking, and other uses that are determined to be compatible with the City's trails by the City.

Naming of Greenways Policy

Greenways can be named for the significant natural features that are found within the corridor. For example, the Haw Creek Greenway is so named because it would follow Haw Creek. Greenways can also be named after an individual or individuals if these persons are truly distinguished within the community, or if these persons have contributed a gift equal to more than 50% of the value of greenway development within that corridor segment.

Fencing and Vegetative Screening Policy

The City of Asheville will work with each landowner on an individual basis to determine if fencing and screening is required and appropriate. The City may agree to fund the installation of a fence or vegetative screen, however, it should be the responsibility of the adjacent property owner to maintain the fence or vegetative screen in perpetuity, including the full replacement of such fence or screen in the event of failure or deterioration due to any circumstances.

Adopt-a-Greenway Program Policy

An Adopt-a-Greenway Program should be established by the City of Asheville, Inc. to encourage community groups, families, businesses, school groups, civic clubs and other organizations to join in managing the greenway system. The City will need to work closely with the Parks and Recreation Department and MSD to ensure that all Adopt-a-Greenway Program groups manage and maintain trails in a manner that is consistent with other land use objectives. The City should develop written agreements for each Adopt-a-Greenway entity and keep a current record of this agreement on file (see example provided Appendix A). Adopt-a-Greenway entities will be assigned a specific section of the greenway system, defined by location or milepost. The activities of each organization should be monitored by the City or its designee. Agreements for management can be amended or terminated at any time by either party, giving 30 days written notice.

Management Agreements Policy

Management Agreements will be established between the City of Asheville and specific public or private organizations wishing to assist with the management of designated segments of the greenway system. The objective of these agreements is to define areas of maintenance and management that are compatible with existing land management activities, especially where greenways intersects with public or private properties and/or rights-of-way. Management agreements spell out specific duties, responsibilities and



activities of the City and public or private organization that wishes to assist with management activities. They can be amended or terminated at any time by either party, giving 30 days written notice (See example provided in Appendix A).

Cross Access Agreements Policy

The City can use cross access agreements to permit private landowners that have property on both sides of a greenway corridor access to and use of a greenway corridor to facilitate operation and land use activities. An example cross access agreement is provided within this Plan (See Appendix B) which can serve as a model for how cross access can be obtained and maintained by the City and adjacent property owners.

This cross access agreement is based on case law of the United States and specific experiences from other greenway trail systems throughout the United States. Adjacent landowners generally have the right to use the access at any time. However, access cannot block the right-of-way for trail users, other than for temporary measures such as permitting livestock to cross, or transporting equipment. Adjacent landowners are responsible for acts or omissions which would cause injury to a third party using the trail. If a landowner must move products, materials, livestock or equipment across the trail on a regular basis, appropriate signage should be installed to warn users of the trail to yield for such activities.

Crossing of abandoned or active rail lines, utility corridors and/or roads and highways will require the execution of agreements with companies, local, state or federal agencies and organizations that own the rights-of-way. These crossings must provide clearly controlled, recognized, and defined intersections in which the user will be warned of the location. In accordance with the American Association of State Highway Transportation Officials (AASHTO) and the Manual on Uniform Traffic Control Devices (MUTCD), the crossing will be signed with appropriate regulatory, warning and information signs.

Greenway Facility Management

Greenway facilities should be maintained in a manner that promotes safe use. All trail facilities should be managed by the City of Asheville or their designee. Trail maintenance should include the removal of debris, trash, litter, obnoxious and unsafe man-made structures, and other foreign matter so as to be safe for public use. Trail heads, points of public access, rest areas and other activity areas should be maintained in a clean and usable condition at all times. The primary concern regarding maintenance should always be public safety.

All trail surfaces should be maintained in a safe and usable manner at all times. Rough edges, severe bumps or depression, cracked or uneven pavement, gullies, rills and washed out treads should be repaired immediately. Volunteer vegetation occurring in the tread of the trail should be removed in such a manner so that the trail surface is maintained as a continuous, even and clean surface.



Land Management

Property owned or used by the City of Asheville for the greenway system should be maintained in a condition that promotes safety and security for greenway users and adjacent property owners. To the extent possible, the property should also be maintained in a manner that enables the corridor to fulfill multiple functions (i.e. passive recreation, alternative transportation, stormwater management and habitat for wildlife). Property that is owned or managed by other entities should be managed and maintained in accordance with the policies of that public body responsible for the affected parcel.

Vegetation within each greenway corridor should be managed to promote safety, serve as wildlife habitat, buffer public trail use from adjacent private property (where applicable), protect water quality, and preserve the unique aesthetic values of the natural landscape. Removal of native vegetation should be done with discretion, removal of exotic species should be accomplished in a systematic and thorough manner. The objective in controlling the growth of vegetation should be to maintain clear and open lines of sight along the edge of the trail, and eliminate potential hazards that could occur due to natural growth, severe weather or other unacceptable conditions.

To promote safe use of any greenway trail, all vegetation should be clear cut to a minimum distance of three (3) feet from each edge of a trail. Selective clearing of vegetation should be conducted within a zone that is defined as being between three (3) to ten (10) feet from each edge of a trail. At any point along a trail, a user should have a clear, unobstructed view, along the centerline of a trail, 300 feet ahead and behind his/her position. The only exception to this policy should be where terrain or curves in a trail serve as the limiting factor.

The City of Asheville or their designated agent should be responsible for the cutting and removal of vegetation. Removal of vegetation by an individual or entity other than the City or a City designee should be deemed unlawful and subject to fines and/or prosecution.

Safety and Security

Safety is a duty and obligation of all public facilities. In order to provide a standard of care that offers reasonable and ordinary safety measures, the City of Asheville should cooperatively develop and implement a Safety and Security Program for the greenway system. This program should consist of well defined safety and security policies; the identification of trail management, law enforcement, emergency and fire protection agencies; the proper posting, notification and education of the trail user policies; and a system that offers timely response to the public for issue or problems that are related to safety and security. The safety and security of the greenway system will need to be coordinated with local law enforcement officials, local neighborhood watch associations, and Adopt-a-Greenway organizations.



Important components of the safety and security program include the following. The City of Asheville should:

- 1) work with City Police to establish a Greenway Safety and Security Committee that can meet monthly to discuss management of the greenway system.
- 2) prepare a Greenway Safety Manual and distribute this to management agencies and post it at all major trail heads.
- 3) post User Rules and Regulations at all public access points to greenway trails.
- 4) work with the management agencies to develop Trail Emergency Procedures.
- 5) prepare a Safety Checklist for the greenway system, and utilize it monthly during field inspection of greenway facilities.
- 6) prepare a Greenway User Response Form for complaints and complements and provide copies at all trail heads.
- 7) work with management agencies to develop a system for accident reporting analysis.
- 8) conduct a regular Maintenance and Inspection Program, and share the results of these investigations with all management agencies.
- 9) coordinate other Public Information Programs that provide information about greenway events and activities that city residents can participate in.
- 10) have an ongoing evaluation of greenway program objectives. It would be best to involve local greenway user groups in this evaluation.

User Rules and Regulations

Trails within greenway corridors should be operated like all other parks within the City, open for public use from sunrise to sunset, 365 days a year, except as specifically designated. Individuals who are found to be using unlighted facilities after dusk and before dawn should be deemed in violation of these hours of operation and treated as trespassers. Where trails are lit for nighttime use, the rules established within the Trail Ordinance (below) should govern permitted uses and activities.

The City should enforce three types of trespass violations. A Level One violation is a first occurrence in which the violator is provided a written warning. Level Two violation is a second occurrence in which the violator is suspended for 30 days from using the greenway system. Level Three violation is a multiple occurrence in which the violator is suspended for life from using the greenway system.

The City should always discourage the general public from using any segment of a greenway trail that is under construction. Trail segments should not be considered officially opened for public use until such time as a formal dedication ceremony and official opening has been completed. Individuals who use greenway segments that are under construction, without written permission from the City should be deemed in violation of this access and use policy and treated as a trespasser.



Trail Ordinance

Multi-use conflict is a national problem for community and regional greenway systems. Typically, conflicts are caused by overuse of a greenway trail, however, other factors may be problematic including poorly designed and engineered trail alignments, inappropriate user behavior, or inadequate facility capacity. The most effective conflict resolution plan is a well conceived safety program that provides the individual user with a Code of Conduct for the greenway trail, sometimes called a Trail Ordinance. Several communities across the United States have adopted progressive trail ordinances to govern public use and keep trails safe for all users. The following Rules and Regulations are recommended for the City's greenway system. These rules should be displayed both on brochures and information signs throughout the greenway system.

- 1) **Be Courteous:** All Trail users, including bicyclist, joggers, walkers, wheelchairs, skateboarders and skaters, should be respectful of other users regardless of their mode of travel, speed, or level of skill. Never spook animals; this can be dangerous for you and other users. Respect the privacy of adjacent landowners!
- 2) **Keep Right:** Always stay to the right as you use the Trail, or stay in the lane that has been designated for your user group. The exception to this rule occurs when you need to pass another user.
- 3) **Pass on the Left:** Pass others going in your direction on their left. Look ahead and behind to make sure that your lane is clear before you pull out and around the other user. Pass with ample separation. Do not move back to the right until you have safely gained distance and speed on the other user. Faster traffic should always yield to slower on-coming traffic.
- 4) **Give Audible Signal When Passing:** All users should give a clear warning signal before passing. This signal may be produced by voice, bell or soft horn. Voice signals might include "Passing on your left!" or "Cyclist on your left!" Always be courteous when providing the audible signal - profanity is unwarranted and unappreciated.
- 5) **Be Predictable:** Travel in a consistent and predictable manner. Always look behind before changing position on the Trail, regardless of your mode of travel.
- 6) **Control Your Bicycle:** Lack of attention, even for a second, can cause disaster - always stay alert! Maintain a safe and legal speed at all times.
- 7) **Do not Block the Trail:** When in a group, including your pets, use no more than half the trail, so as not to block the flow of other users. If your group is approached by users from both directions, form a single line or stop and move to the far right edge of the Trail to allow safe passage by these users.
- 8) **Yield when Entering or Crossing Trails:** When entering or crossing the Trail at uncontrolled intersection, yield to traffic already using the other trail.
- 9) **The Use of Lights:** (where permitted) When using the Trail after dawn or before dusk be equipped with proper light. Cyclists should have a white light that is visible from five hundred feet to the front, and a red or amber light that is visible from five hundred feet to the rear. Other Trail users should use white lights (bright flashlights) visible two hundred fifty feet to the front, and wear light or reflective clothing.



- 10) Do not Use this Trail Under the Influence of Alcohol or Drugs: It is illegal to use this Trail if you have consumed alcohol in excess of the statutory limits, or if you have consumed illegal drugs. Persons who use a prescribed medication should check with their doctor or pharmacist to ensure that it will not impair their ability to safely operate a bicycle or other wheeled vehicle.
- 11) Clean-up Your Litter: Please keep this Trail clean and neat for other users to enjoy. Do not leave glass, paper, cans or any other debris on or near the Trail. Please clean up after your pets. Pack out what you bring in - and remember to always recycle your trash.
- 12) Keep Pets on Leashes: All pets must be kept on secure and tethered leashes. Keep pets off of adjacent private property. Failure to do so will result in a fine.
- 13) Prohibition on Camp Fires: Fires, for any purpose, are prohibited within the Trails System. Any person caught lighting a fire for any purpose will be prosecuted to the fullest extent of the law.

Emergency Response Plan

In order to effectively patrol the greenway system and respond to the potential for fire, floods and other natural or human-caused disasters, the City of Asheville should adopt a greenway emergency response plan. This plan defines a cooperative law enforcement strategy for greenways based on services required and those that are typically provided by police, sheriff, fire and EMS agencies. Specifically, all trails should be provided with an address system that denotes specific locations along the length of a trail corridor. A site plan that illustrates points of access to each trail corridor should be produced and kept on file at the City Planning Department and provided to each agency. Each trail should be designed to permit access for law enforcement, fire and EMS agencies and vehicles that are not in excess of 6.5 tons gross vehicle weight. Typically, inter-governmental agreements are executed for this. A system of cellular-type emergency phone should be located in remote sections of the system, providing users with access to the area 911 Emergency System.

The emergency response plan should also define the agencies that should respond to 911 calls, and provide easy to understand routing plans and access points for emergency vehicles. Local hospitals should be notified of these routes so that they may also be familiar with the size and scope of the project. The entire greenway system should be designed and develop to support a minimum gross vehicle weight of 6.5 tons.

Risk Management Plan

The purpose of a Risk Management Plan is to increase safety for the users of the Asheville greenway system and reduce the potential for accidents to occur within the system or on lands adjacent to the system. While it is impossible to guarantee that all risk will be eliminated by a Risk Management Plan, implementation of a plan is in fact a



critical step to reduce liability and improve safety. A Risk Management Plan establishes a methodology for greenway management that is based on current tort liability and case law in the United States related to the development, operation and management of public use greenway lands and facilities.

The ultimate responsibility for managing the greenway system, as defined within this Plan, rests with the City of Asheville. The Risk Management Plan has as its major goals:

- 1) Risk Identification: determining where risk (threat to safety or potential loss) exists within the corridor.
- 2) Risk Evaluation: conducting appropriate examination of areas defined as a risk and determining the factors that contribute to risk.
- 3) Risk Treatment: defining and implementing an appropriate solution to the area of risk in accordance with one of the four options:
 - a) risk avoidance: prohibiting use of a risk area.
 - b) risk reduction: limit use of area and repair risk area immediately.
 - c) risk retention: obtain waivers from all potential users of the risk area.
 - d) risk transfer: transfer risk area (property) to an agency better suited to manage the area.

The following sixteen step plan should be implemented by the City of Asheville to establish a Risk Management Plan for the Asheville greenway system.

- 1) Develop a policy statement about risk management.
- 2) Conduct a needs assessment for the greenway program.
- 3) Determine goals and objectives for risk management - what is acceptable and not acceptable management levels.
- 4) Develop specifications for site and facility development.
- 5) Establish a clear and concise program for risk management.
- 6) Define supervision and responsibility for risk management.
- 7) Define appropriate rules and regulations that govern the use of the trail system.
- 8) Conduct routine/systematic inspections and investigations of the trail system.
- 9) Develop an accident reporting and analysis system.
- 10) Establish procedures for handling emergencies.
- 11) Develop appropriate releases, waivers and agreements for use and management.
- 12) Identify best methods for insuring against risk.
- 13) Develop a comprehensive in-service training program for employees of the City.
- 14) Implement a public relations program that can effectively describe the risk management program and activities.
- 15) Conduct periodic reviews of the Risk Management Plan by outside agents to ensure that the Plan is up to date.
- 16) Maintain good legal and insurance representation.



Liability

The design, development, management, and operation of the Asheville greenway system must be carefully and accurately executed in order to provide a resource that protects the health and welfare of the public. Liability may occur when a facility has been under-designed to handle its intended volume of use; when management of the facility is poor; or when unexpected accidents occur because the trail manager failed to recognize the possibilities of a potentially hazardous situation. To reduce the possibility and exposure to liability, the City should have in operation the following measures prior to opening the first segment of greenway:

- 1) a thorough Maintenance Program that provides the appropriate duty or level of care to greenway users;
- 2) a Risk Management Plan that appropriately covers all aspects of the greenway system, and as necessary adjacent landowners;
- 3) a comprehensive working knowledge of public use laws and recent case history applicable in North Carolina.

The City of Asheville's existing municipal insurance program should be adequate to protect the community from financial loss that might occur through the development and operation of a public use greenway system. Trails are no greater liability to the community than park and recreation resources. The City should review its current policy and check coverages to be certain that all aspects of its policies are up to date.

The City of Asheville should exercise reasonable care in the design and construction of all greenway facilities to reduce hazardous, public nuisance and life threatening situations. Recreational Use Statutes in North Carolina serve to reduce the exposure that adjacent landowners might expect to realize from the proximity of trails to private property. In fact, it is very difficult to find any case law in the United States where an adjacent property owner has been sued because a trail user strayed onto the adjacent private property and fell victim to an accident that was caused by the adjacent landowner. Some landowners have claimed that their insurance rates will go up because of the presence of a trail abutting their property. Once again, there is no case history among insurance companies to support this claim — provided the landowner has not gone out of their way to create an attractive nuisance and lure trail users onto their property.

It is also important that a fee not be charged to use any portion of the greenway system, because typically this may impact the way in which the recreational use statutes in North Carolina apply to the use of the system. A voluntary donation applied to the greenway system will generally not affect the recreational use statute.

